

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

IN RE:

THE FINANCIAL OVERSIGHT AND
MANAGEMENT BOARD OF PUERTO RICO

As representative of

THE COMMONWEALTH OF PUERTO RICO

Debtor.

PROMESA
Title III

No. 17 BK 03283-LTS

**MOTION IN COMPLIANCE WITH NOTICE
OF DEFECTIVE FILING [ECF No. 24887]**

TO THE HONORABLE COURT:

NOW comes, creditor Robert Anel Díaz-Morales (hereafter, "Movant"), represented by his undersigned counsel, and respectfully informs, and prays as follows:

1. On August 14, 2023, at 11:05 a.m., Movant filed using the EM/CMF filing his *"Response to Five Hundred Seventy-Eight Omnibus Objection (Non-Substantive) of the Commonwealth of Puerto Rico to Proof of Claim Number 46107 And for Relief from Stay"*. **[ECF No. 24878]**.

2. The electronic filing of the Response made on August 14, 2023, at **ECF No. 24878**, was necessary since Movant first filed his Response on August 11, 2023, at **ECF No. 24869**, yet counsel was notified by Carmen Tacaronte (see edit to **ECF No. 24869**) on August 13, 2023, that the Response had been "filed in error" and that counsel had to re-file the same *"USING THE CORRECT CM/ECF EVENT.***"*

3. The Response filed on August 14, 2023, at 11:05 a.m., was, therefore, re-filed as instructed by the Clerk's Office using the correct CM/ECF event.

4. To ensure that the Response was timely and correctly filed, since the responses to Debtor's *Five Hundred Seventy-eighth Omnibus Objection (Non-substantive)* (**ECF No. 24749**), were due to be filed by 4:00 p.m., on August 14, 2023, counsel, in an abundance of caution, decided to also file a paper and complete copy of the Response (as filed electronically) before the Clerk's Office of the United States District Court for the District of Puerto Rico on August 14, 2023. The Clerk stamped the first page of the paper copy of the Response as received and filed at 3:40 p.m. **(Due to the length of the Response, the same is attached as Exhibit 1A and 1B).**

5. The Clerk of the Court then issued a Notice of Defective pleading regarding the paper copy of the Response filed. **[ECF No. 24887.]** The Clerk notified that: "*The Clerk of Court has received your pleading on August 14, 2023. However, the deficiencies listed below have prevented us from filing the same in the case docket. You must submit a corrected pleading if you want it to form part of the record.*" The ONLY deficiency noted as to the paper copy of the Response was that: **"5. The attached document (referring to the paper copy of the Response) is non-compliant with Fed. R. Civ. P.**

5(d) (3) (A) and L. Civ. R. 5(a). Counsel is required to file the document electronically via CM/ECF."

6. However, the Response had already been filed earlier on August 14, 2023, by means of the CM/ECF system as required by Fed. R. Civ. P. 5(d) (3) (A) and L. Civ. R. 5(a). [ECF No. 24878.] In fact, the Court and the Clerk can see that the paper copy filed shows the date, time, and ECF. No. of the Response as filed earlier on August 14, 2023, on the top of each page.

7. Therefore, the paper copy of the Response filed with the Clerk of Court at 3:40 p.m., on August 14, 2023, that was filed only to ensure that the Response was timely and correctly filed using the correct EM/CMF event, can be disregarded by this Honorable Court and the Clerk as it is duplicative of the Response already properly and timely filed at **ECF No. 24878, and the same does not need to be re-filed using the CM/ECF system.**

8. In fact, the Honorable Judge, Laura Swain, has already entertained the Response filed by means of the EM/CMF filing, and issued an Order regarding the same. [ECF No. 24885.]

ORDER CONCERNING 24878 Response to Debtor's Objection to Claims (Number(s): 46107) Re: 24749 Debtor's Omnibus Objection to Claims - Five Hundred Seventy-eighth Omnibus Objection (Non-substantive) of the Commonwealth of Puerto Rico, the Puerto Rico Highways and Transpo filed by Robert Anel Diaz Morales. The Response will be

deemed to be solely a timely response to the 578th Omnibus Claims Objection, and any additional or different relief requested is hereby denied without prejudice. Any additional relief in the form of relief from the automatic stay or from the injunctive provisions of the Commonwealths plan of adjustment must be requested by separate motion. Signed by Judge Laura Taylor Swain on 8/14/2023. (sc) (Entered: 08/14/2023)."

WHEREFORE, Creditor Robert Anel Díaz-Morales respectfully informs the foregoing and requests that the Honorable Court and the Clerk take note that **ECF No. 24878** was correctly and timely filed using the EM/CMF, that the defective notice of pleading deals only with filing of the paper copy of the Response, and it is unnecessary to refile it as it would be duplicative of **ECF No. 24878**. Nonetheless, the paper copy of the Response stamped as filed and received at 3:40 p.m., on August 14, 2023, is also electronically filed as an Exhibit to this Motion.

VERY RESPECTFULLY SUBMITTED.

In San Juan, Puerto Rico, on August 15, 2023.

IT IS HEREBY CERTIFIED that the foregoing was filed with the Clerk of the Court using the CM/ECF system, which will send notification electronically to all attorneys of record.

[Signatures on next page.]

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